

CHAPTER 22

MESSAGE BUSINESS ORDINANCE

The Mayor and Council, as the duly constituted legislative body, have determined that it is in the best interest of the Town of Williamsport and the citizenry in general to revise certain permit fees for the establishment and operation of massage businesses within the corporate limits of the Town.

NOW, THEREFORE, BE IT RESOLVED, ENACTED and ORDAINED that Chapter 22 entitled, "MESSAGE BUSINESS ORDINANCE", be and is hereby revoked; and

Be it further **RESOLVED, ENACTED and ORDAINED** that said Chapter 22, "MESSAGE BUSINESS ORDINANCE" is hereby amended and reenacted to read as follows:

CHAPTER 22

MESSAGE BUSINESS ORDINANCE

SECTION 1: POLICY AND DEFINITIONS.

DW 4402
Oct 15, 2013 10:26 am

A. Policy

WHEREAS; it has been determined by the Mayor and Council for the Town of Williamsport that the unregulated proliferation of the Massage Business would be contrary to the public welfare and interest, and the Mayor and Council have determined that the licensing and regulation of such business or establishments is required to properly protect the public health, safety, and general welfare of the citizens of the community.

B. Definitions

1. Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this Section.
2. "Employee" means any person, other than a masseur, who renders any service in connection with the operation of a massage business and receives compensation from the operator of the business or patrons.
3. "Massage" means any method of treating the external superficial parts, or internal parts of a patron for medical, hygienic, exercise, or relaxation purposes,

including but not limited to rubbing, striking, kneading, tapping, pounding, vibrating, or stimulating with the hands or instrument, or the application of air, liquid or vapor baths of any kind whatsoever, alcohol rub, or similar treatment, electric or magnetic treatment, physiotherapy, or manipulation.

4. "Masseur" means any person who engages in the practice of massage as herein defined. The use of the masculine gender shall include in all cases the feminine gender as well.

5. "Patron" means any person who receives a massage.

6. "Recognized School" means any school or institution of learning which has for its purpose the teaching of the theory, method, profession, or work of massage which is recognized by the American Massage Therapy Association.

7. "Erogenous Area" means the pubic area, penis, scrotum, vulva, perineum, or anus.

8. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or legal entity of whatsoever kind or nature.

9. "Police Chief/Police Department" means the head of any police department or agency designated by the Mayor and Council and/or contracted for by the Municipality to act as a law enforcement agency within the corporate limits of the Town. This definition shall include all agents, servants, and representatives duly designated by the law enforcement agency to act as enforcement officer for the purposes of this Ordinance.

10. "Code Enforcement Officer" shall be and is defined as a person designated to administer and/or enforce the provisions of this Ordinance by the Mayor and Council.

SECTION 2. PERMIT

A. Permit Required.

1. Business Permit Required. No person shall engage in or carry on the business of massage unless he or she has a valid massage business permit issued by the Town pursuant to the provisions of this Ordinance for each and every separate office or place of business conducted by such person.

2. Masseur's Permit Required. No person shall practice massage as a masseur, employee or otherwise, unless he or she has a valid and subsisting masseur's permit issued to him or her by the Town pursuant to the provisions of this Ordinance.

3. Existing Establishments. Upon application, the Code Enforcement Officer shall issue a temporary massage business permit to any applicant who was, upon the effective date of this Chapter, the owner or operator of such establishment in the Town of Williamsport. Such temporary permit shall remain in effect for a period of thirty (30) days or until the issuance of the permanent permit, whichever is sooner. If the application for the permit is denied, said temporary permit shall immediately expire and be of no further force and effect.

B. Application.

Any person desiring a massage business permit shall file a written application with the Code Enforcement Officer on a form furnished by the Town Clerk. The applicant shall accompany the application with a tender of the correct permit fee to the Town Clerk, as hereinafter provided and shall, in addition, furnish the following:

1. The type of ownership of the business, i.e., whether individual, partnership, corporation or otherwise.
2. The name, style, and designation under which the business or practice is to be conducted.
3. The business address and all telephone numbers where the business is to be conducted.
4. A complete list of the names and residence addresses of all masseurs and employees in the business and the name and residence addresses of the manager or other person principally in charge of the operation of the business.
5. The following personal information concerning the applicant, if an individual; and concerning each stockholder holding more than ten (10%) percent of the stock of the corporation, each officer and each director, if the applicant is a corporation; and concerning the partners, including limited partners, if the applicant is a partnership; and concerning the manager or other person principally in charge of the operation of the business; and if one or more of the stockholders owning more than ten (10%) percent of the applicant corporation is itself a corporation, the names and addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten (10%) percent of the stock of said corporation.
 - (a) Name, complete residence address and residence telephone numbers.
 - (b) The two previous addresses immediately prior to the present address of the applicant.
 - (c) Written proof of age.

Liber 12 Folio 0272

Acts, Ordinances, Resolutions- Town
Clerk of the Circuit Court
Washington County

- (d) Height, weight, color of hair and eyes, and sex.
 - (e) Two front-face portrait photographs taken within thirty (30) days of the date of the application and at least 2 inches by 2 inches in size.
 - (f) The massage or similar business history and experience, including but not limited to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or superseded and the reason therefore, and the business activities or occupations subsequent to such action of denial, suspension or revocation.
 - (g) All criminal convictions other than misdemeanor traffic violations, totally disclosing the jurisdiction in which convicted and the offense for which convicted and the circumstances thereof.
 - (h) A complete set of fingerprints taken and to be retained on filed by the Code Enforcement Officer or his/her authorized representatives.
 - (i) Proof of being a licensed masseuse under the circumstances by any federal or state regulatory agencies.
6. Such other information, identification, and physical examination of the person as shall be deemed necessary by the Code Enforcement Officer to discover the truth of the matters hereinbefore required to be set forth in the application.
7. Authorization for the Town, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
8. The names and addresses of three (3) adult residents of the County who will serve as character witnesses. These references must be persons other than relatives and business associates.
9. Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed by the Town.

C. Application for Masseur's Permit

Any person desiring a masseur's permit shall file a written application with the Code Enforcement Officer on a form to be furnished by the Town Clerk. The applicant shall tender with the application the correct permit fee to the Town clerk, as hereinafter provide and shall, in addition, furnish the following:

1. The business address and all telephone numbers were the massage is to be practiced.
2. The following personal information concerning the applicant:
 - (a) Name, complete residence address and residence telephone numbers.
 - (b) The two previous addresses immediately prior to the present address of the applicant.
 - (c) Written proof of age.
 - (d) Height, weight, color of hair and eyes, and sex.
 - (e) Two front-face portrait photographs taken within thirty (30) days of the date of application and at least 2 inches by 2 inches.
 - (f) The massage or similar business history and experience, including but not limited, to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or suspended and the reason therefore, and the business activities or occupations subsequent to such action of denial, suspension or revocation.
 - (g) A complete set of fingerprints taken and to be retained on file by the Code Enforcement Officer or his/her authorized representatives.
 - (h) Diploma, certificate, or other written proof of graduation from a recognized school where the theory, method, profession or work of massage is taught.
 - (i) A statement in writing from a licensed physician in the state that he has examined the applicant and believes the applicant to be free of all communicable diseases.
3. Such other information, identification, and physical examination of the person as shall be deemed necessary by the Code Enforcement Officer to discover the truth of the matters hereinbefore required to be set forth in the application.
4. Authorization for the Town, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

5. Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, and declared being duly dated and signed in the Town.

D. Approval by Code Enforcement Officer.

Upon receiving the application for a massage business or masseur's permit the Code Enforcement Officer shall require his/her duly authorized representative or the police agency responsible for law enforcement within the corporate limits of the municipality to conduct an investigation into the applicant's moral character and personal and criminal history. The Code Enforcement Officer may in his/her discretion, require a personal interview of the applicant, and such further information, identification and physical examination of the person as shall bear on the investigation.

In the case of applications for massage business permits, the Code Enforcement Officer shall cause to be conducted an investigation of the premises where the massage business is to be carried on, for the purposes of assuring that such premises comply with all the sanitation requirements as set forth in the Ordinance and with all other applicable laws, including but not limited to all federal, state and town building, fire, safety and health requirements.

Before any permit shall be issued under this Section, the Code Enforcement Officer shall first sign his/her approval of the application.

E. Issuance or Denial of Massage Business Permit.

The Code Enforcement Officer shall issue a massage business permit within forty-five (45) days of receipt of the application unless he finds that:

1. The correct permit fee has not been tendered to the Town, and, in the case of a check or bank draft, honored with payment upon presentation.

2. The operation, as approved by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the Town's building, zoning and health regulations.

3. The applicant, if an individual; or any of the stockholders holding more than ten (10%) of the stock of the corporation, any of the officers and directors, if the applicant is a corporation, or any of the partners, including limited partners if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, have been convicted of any crime, other than minor traffic violations, unless such conviction occurred at least five (5) years prior to the date of the application.

- (a) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the Town in conjunction therewith.
- (b) The applicant has had a massage business, masseur, or other similar permit or license by the Town or any other state or local agency within five (5) years prior to the date of application.
- (c) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, if the Applicant is a partnership; and the manager or other person principally in charge of the operation of the business is not over the age of eighteen (18) years; and
- (d) The manager or other person principally in charge of the operation of the business has not successfully completed a resident course of study or learning from a recognized school where the theory, method, profession, or work of massage is taught.

SECTION 3. APPLICABILITY AND EXCEPTIONS

This Ordinance shall be construed to be applicable to all persons as defined herein whether profit or non-profit in nature, except as hereinafter provided.

A. Exceptions.

The provisions of this article shall not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts under the laws of the State, or persons working under the direction of any such persons or in any such establishment, nor shall this Section apply to barbers or cosmetologists, lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the State.

SECTION 4. GENERAL REQUIREMENTS

A. Display of Permits.

The massage business permittee shall display his/her permit, and that of each and every masseur employed in the establishment, in an open and conspicuous place on the premises of the massage business.

B. Permit Fee.

The permit fee for a massage business shall be Two Hundred Fifty (\$250.00) Dollars per year, due and payable on the first (1st) day of January of each calendar year. In the event that a permit shall be issued during the period from January 1 up to and including June 30 of a calendar year, the permit fee for a massage business shall be Two

Hundred Fifty (\$250.00) Dollars. In the event that a permit is applied for and issued at any time during a calendar year from July 1 up to and including December 31, the permit fee for that calendar year shall be One Hundred Twenty Five (\$125.00) Dollars.

The permit fee for a masseur shall be Twenty-Five (\$25.00) Dollars per year, payable upon application. There shall be no pro-ration of a masseur's permit fee regardless of when issued. In the event that a masseur's permit be denied, there shall be no refund of the Twenty-Five (\$25.00) Dollar fee referred to herein.

In the event that the application for a massage business shall be refused, then the application fee as tendered in accordance with the applicable provisions of this Ordinance shall be refunded up to and including the total sum of One Hundred Twenty-Five (\$125.00) Dollars. One Hundred Twenty-Five (\$125.00) Dollars shall be retained by the Town to cover investigation and administrative expenses.

C. Term of Permit.

The term of a massage business permit and masseur's permit shall be for a period of one (1) year or any portion thereof to the time of the annual permit fee being due and payable.

The application shall be made by holders of massage business permits and masseur's permits no later than forty-five (45) days prior to the expiration of said permit. The application shall be made in accordance with the provisions of this Ordinance, and all provisions of this Ordinance shall apply to renewals in the same manner as they apply to original applications.

D. Transfers.

No massage business or masseur permits are transferable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee named therein.

No massage business permit shall be applicable to any other location other than that location set forth in the initial application under the terms of this Ordinance.

E. Sanitation and Safety Requirements.

All premises used by the permittees hereunder shall be periodically inspected by the Code Enforcement Officer or his/her authorized representatives for safety of the structure and adequacy of plumbing, ventilation, heating and illumination. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition. Towels, cloths and sheets shall not be used for more than one (1) patron. Heavy, white paper may be substituted for sheets provided that such paper is

changed for every patron. NO massage service or practice shall be carried on within any cubicle, room booth, or any area within a massage establishment with a door capable of being locked.

Nothing contained herein shall be construed to eliminate other minimum requirements of federal, state of county or town ordinances or regulations pertaining or applicable to the maintenance, control, and operation of said premises; nor to preclude any authorized inspections thereof by the building inspector, health department, fire department, or any other authorized inspections.

The premises used by permittees hereunder shall be subject to the right of entry and examination by the Code Enforcement Officer, representative of the police agency responsible for the law enforcement in the municipality, or the duly authorized agents or representatives of the Code Enforcement Officer, or any other persons authorized to inspect premises of this nature as hereinabove set forth during business hours.

This section shall not restrict or limit the right of entry vested in any law enforcement agency other than herein set forth.

F. Supervision.

A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one (1) person who qualifies as a masseur on the premises at all times when the establishment is open. The massage business permittee shall personally supervise the business and shall not violate or permit others to violate, any applicable provisions of this Ordinance or any other applicable laws. The violation of any such provision by any agent or employee of the massage business permittee shall constitute a violation by the permittee and by the person violating the provisions of this Ordinance or any other law.

SECTION 6. REFUSAL, REVOCATION AND SUSPENSION OF PERMIT

A. Refusal of Application

In the event any applicant is refused a permit under the provisions of this Ordinance the applicant shall have ten (10) days from the receipt of said refusal in writing to appeal to the Mayor and Council for review of said application.

Said permittee shall then be entitled to a hearing on said application, either before the Mayor and Council or before some duly authorized or appointed administrative agency of the Town, designated by said Mayor and Council.

A record of said hearing shall be kept. In the event said hearing results in further refusal, the applicant shall have all applicable remedies as set forth in the Maryland Rules of Practice and Procedure and the Annotated Code of Maryland for appeals from administrative agencies.

B. Revocation and Suspension of Permit.

Any massage business or masseur's permit issued under this Chapter shall be subject to suspension or revocation by the Code Enforcement Officer for violation of any provision of this Ordinance, or for any grounds that would warrant denial of issuance of such permit in the first place. The Code Enforcement Officer, upon such revocation or suspension, shall state his/her reasons in writing, specifying the particular grounds for such revocation or suspension.

Said permittee shall then be entitled to a hearing on said application, either before the Mayor and Council, or before some duly authorized or appointed administrative agency of the Town, or hearing board consisting of at least three (3) persons designated by said Mayor and Council.

A record of said hearing shall be kept. In the event said hearing results in further refusal, the applicant shall have all applicable remedies as set forth in the Maryland Rules of Practice and Procedure and the Annotated Code of Maryland for appeals from administrative agencies.

SECTION 7. UNLAWFUL ACTS

A. Persons Under Age 18 Prohibited on the Premises.

No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any massage business establishment, as masseur, employee, or patron, unless such person is on the premises on lawful business.

B. Alcoholic Beverages.

No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any massage business.

C. Unlawful Acts.

1. It shall be unlawful to remain open or to provide services between the hours of twelve (12) midnight and eight (8:00) A.M.

2. It shall be unlawful for any person, in a massage establishment, to place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, and erogenous area of any other person.

3. It shall be unlawful for any employee in a massage establishment, to expose the erogenous area, or any portion thereof, to any other person. It shall be also unlawful for any person, in a massage establishment, to expose the erogenous area or any portion thereof, to any other person.

4. It shall be unlawful for any person, while in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering, the erogenous area of his or her body.

5. It shall be unlawful for any person to act as a masseur in any place other than a licensed massage establishment.

6. All other acts set forth herein are in addition to all other acts prohibited by this Ordinance and the laws of the State of Maryland.

SECTION 8. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and the such decision shall not affect the validity of the remaining portions hereof.

SECTION 9. PENALTIES

A. Violations and Penalties.

Every person convicted of a violation of any provision of this Ordinance shall be punished by a fine of One Hundred (\$100.00) Dollars, or imprisonment for a period not exceeding thirty (3) days, or both such fine and imprisonment within the discretion of the Court.

The penalties as set forth herein are in addition to, and not in derogation, of any other penalties provided in this Ordinance, or under the applicable laws of the State of Maryland.

The penalties as set forth herein are also in addition to all civil remedies that may be applicable.

WITNESS AND ATTEST
AS TO CORPORATE SEAL

By: 

Donnie Stotelmyer
Clerk/Secretary

MAYOR AND COUNCIL OF THE
TOWN OF WILLIAMSPORT, MARYLAND

By: 

James G. McCleaf, II
Mayor

Liber 12 Folio 0280

Acts, Ordinances, Resolutions- Town
Clerk of the Circuit Court
Washington County

REVISED¹ AND REENACTED

DATE OF INTRODUCTION: May 13, 2013

DATE OF PASSAGE: May 13, 2013

EFFECTIVE DATE: July 10, 2013

Former Chapter 7 in 1989 Codification.

Record and return to: Town Clerk
Town of Williamsport
P. O. Box 307
Williamsport, MD 21795

OCT 18 2013

Sewer Ord Chapter 34 Amendment.07.14.13

¹ Reviser's Note: The revisions in this Ordinance were in the Definitions (Paragraphs §1.B. 9&10) and to provide enforcement other than by the "Police Chief" as had been originally referred to in the Ordinance. The Town has not had a Police Chief for many years. Original Effective Date May 4, 1976, Re-enacted September 11, 1989, Revised and Re-enacted March 1, 2005, and Revised and Re-enacted June 10, 2013 as to the fee for the Permit and pro-rata fee for Permit.

CHAPTER 22

MASSAGE BUSINESS ORDINANCE

SECTION 1: POLICY AND DEFINITIONS

A. Policy

WHEREAS; it has been determined by the Mayor and Council for the Town of Williamsport that the unregulated proliferation of the Massage Business would be contrary to the public welfare and interest, and the Mayor and Council have determined that the licensing and regulation of such business or establishments is required to properly protect the public health, safety, and general welfare of the citizens of the community.

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3. "Massage" means any method of treating the external superficial parts, or internal parts of a patron for medical, hygienic, exercise, or relaxation purposes, including but not limited to rubbing, striking, kneading, tapping, pounding, vibrating, or stimulating with the hands or instrument, or b the application of air, liquid or vapor baths of any kind whatsoever, alcohol rub or similar treatment, electric or magnetic treatment, physiotherapy, or manipulation.
4. "Masseur" means any person who engages in the practice of massage as herein defined. The use of the masculine gender shall include in all cases the feminine gender as well.
5. "Patron" means any person who receives a massage.
6. "Recognized School" means any school or institution of learning which has for its purpose the teaching of the theory, method, profession, or work of massage which is recognized by the American Massage Therapy Association.

7. "Erogenous Area" means the pubic area, penis, scrotum, vulva, perineum, or anus.

8. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or legal entity of whatsoever kind or nature.

9. "Police Chief/Police Department" means the head of any police department or agency designated by the Mayor and Council and/or contracted for by the Municipality to act as a law enforcement agency within the corporate limits of the Town. This definition shall include all agents, servants, and representatives duly designated by the law enforcement agency to act as enforcement officer for the purposes of this Ordinance.

10. "Code Enforcement Officer" shall be and is defined as a person designated to administer and/or enforce the provisions of this Ordinance by the Mayor and Council.

SECTION 2. PERMIT

A. Permit Required.

1. Business permit required. No person shall engage in or carry on the business of massage unless he or she has a valid massage business permit issued by the Town pursuant to the provisions of this Ordinance for each and every separate office or place of business conducted by such person.

2. Masseur's permit requires. No person shall practice massage as a masseur, employee or otherwise, unless he or she has a valid and subsisting masseur's permit issued to him or her by the Town pursuant to the provisions of this Ordinance.

3. Existing establishments. Upon application, the Code Enforcement Officer shall issue a temporary massage business permit to any applicant who was, upon the effective date of this Chapter, the owner or operator of such establishment in the Town of Williamsport. Such temporary permit shall remain in effect for a period of thirty (30) days or until the issuance of the permanent permit, whichever is sooner. If the application for the permit is denied, said temporary permit shall immediately expire and be of no further force and effect.

B. Application.

Any person desiring a massage business permit shall file a written application with the Code Enforcement Officer on a form furnished by the town Clerk. The

applicant shall accompany the application with a tender of the correct permit fee to the Town Clerk, as hereinafter provided and shall, in addition, furnish the following:

1. The type of ownership of the business, i.e., whether individual, partnership, corporation, or otherwise.
2. The name, style, and designation under which the business or practice is to be conducted.
3. The business address and all telephone numbers where the business is to be conducted.
4. A complete list of the names and residence addresses of all masseurs and employees in the business and the name and residence addresses of the manager or other person principally in charge of the operation of the business.
5. The following personal information concerning the applicant, if an individual; and concerning each stockholder holding more than 10 (10%) percent of the stock of the corporation, each officer and each director, if the applicant is a corporation; and concerning the partners, including limited partners, if the applicant is a partnership; and concerning the manager or other person principally in charge of the operation of the business; and if one or more of the stockholders owning more than ten (10%) percent of the applicant corporation is itself a corporation, the names and addresses of each of the officers and directors of said corporation and of each stockholder owning more than ten (10%) percent of the stock of said corporation.
 - (a) Name, complete residence address and residence telephone numbers.
 - (b) The two previous addresses immediately prior to the present address of the applicant.
 - (c) Written proof of age.
 - (d) Height, weight, color of hair and eyes, and sex.
 - (e) Two front-face portrait photographs taken within thirty (30) days of the date of the application and at least 2 inches by 2 inches in size.
 - (f) The massage or similar business history and experience, including but not limited to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or suspended and the reason therefore, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

- (g) All criminal convictions other than misdemeanor traffic violations, totally disclosing the jurisdiction in which convicted and the offense for which convicted and the circumstances thereof.
 - (h) A complete set of fingerprints taken and to be retained on file by the Code Enforcement Officer or his/her authorized representatives.
 - (i) Diploma, certificate, or other written proof of graduation from a recognized school by the person who shall be directly responsible for operation and management of the massage business where the theory, method, profession or work of massage is taught.
 - (j) Proof of being a licensed masseuse under the circumstances by any federal or state regulatory agencies.
6. Such other information, identification, and physical examination of the person as shall be deemed necessary by the Code Enforcement Officer to discover the truth of the matters hereinbefore required to be set forth in the application.
 7. Authorization for the Town, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
 8. The names and addresses of three (3) adult residents of the County who will serve as character references. These references must be persons other than relatives and business associates.
 9. Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the Town.

C. Application for Masseur's Permit.

Any person desiring a masseur's permit shall file a written application with the Code Enforcement Officer on a form to be furnished by the Town Clerk. The applicant shall tender with the application the correct permit fee to the Town Clerk, as hereinafter provided and shall, in addition, furnish the following:

1. The business address and all telephone numbers where the massage is to be practiced.
2. The following personal information concerning the applicant:
 - (a) Name, complete residence address and residence telephone numbers.

(b) The two previous addresses immediately prior to the present address of the applicant.

(c) Written proof of age.

(d) Height, weight, color of hair and eyes, and sex.

(e) Two front-face portrait photographs taken within thirty (30) days of the date of application and at least 2 inches by 2 inches.

(f) The massage or similar business history and experience, including but not limited to whether or not such person in previously operating in this or another city or state under license or permit has had such license or permit denied, revoked, or suspended and the reason therefore, and the business activities or occupations subsequent to such action of denial, suspension or revocation.

(g) A complete set of fingerprints taken and to be retained on file by the Code Enforcement Officer or his/her authorized representatives.

(h) Diploma, certificate, or other written proof of graduation from a recognized school where the theory, method, profession or work of massage is taught.

(i) A statement in writing from a licensed physician in the state that he has examined the applicant and believes the applicant to be free of all communicable diseases.

3. Such other information, identification, and physical examination of the person as shall be deemed necessary by the Code Enforcement Officer to discover the truth of the matters hereinbefore required to be set forth in the application.

4. Authorization for the Town, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

5. Written declaration by the applicant, under penalty of perjury, that the foregoing information contained in the application is true and correct, said declaration being duly dated and signed in the Town.

D. Approval by Code Enforcement Officer.

Upon receiving the application for a massage business or masseur's permit the Code Enforcement Officer shall require his/her duly authorized representatives or the police agency responsible for law enforcement with the corporate limits of the

municipality to conduct an investigation into the applicant's moral character and personal and criminal history. The Code Enforcement may in his/her discretion, require a personal interview of the applicant, and such further information, identification and physical examination of the person as shall bear on the investigation.

In the case of applications for massage business permits, the Code Enforcement Officer shall cause to be conducted an investigation of the premises where the massage business is to be carried on, for the purposes of assuring that such premises comply with all the sanitation requirements as set forth in the Ordinance and with all other applicable laws, including but not limited to all federal, state and town building, fire, safety and health requirements.

Before any permit shall be issued under this Section, the Code Enforcement Officer shall first sign his/her approval of the application.

E. Issuance or Denial of Massage Business Permit.

The Code Enforcement Officer shall issue a massage business permit within forty-five (45) days of receipt of the application unless he finds that:

1. The correct permit fee has not been tendered to the town, and, in the case of a check or bank draft, honored with payment upon presentation.

2. The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the Town's building, zoning, and health regulations.

3. The applicant, if an individual; or any of the stockholders holding more than ten (10%) of the stock of the corporation, any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, have been convicted of any crime, other than minor traffic violations, unless such conviction occurred at least five (5) years prior to the date of the application.

(a) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the permit application or in any document required by the Town in conjunction therewith.

(b) The applicant has had a massage business, masseur, or other similar permit or license denied by the Town or any other state or local agency within five (5) years prior to the date of application.

(c) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, if the

applicant is a partnership; and the manager or other person principally in charge of the operation of the business is not over the age of eighteen (18) years; and

(d) The manager or other person principally in charge of the operation of the business has not successfully completed a resident course of study or learning from a recognized school where the theory, method, profession, or work of massage is taught.

SECTION 3. APPLICABILITY AND EXCEPTIONS

This Ordinance shall be construed to be applicable to all persons as defined herein whether profit or non-profit in nature, except as hereinafter provided.

A. Exceptions.

The provisions of this article shall not apply to hospitals, nursing homes, sanitariums, or person holding an unrevoked certificate to practice the healing arts under the laws of the State, or persons working under the direction of any such persons or in any such establishment, nor shall this Section apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the State.

SECTION 4. GENERAL REQUIREMENTS

A. Display of Permits.

The massage business permittee shall display his/her permit, and that of each and every masseur employed in the establishment, in an open and conspicuous place on the premises of the massage business.

B. Permit Fee.

The permit fee for a massage business shall be One Thousand (\$1,000.00) Dollars per year, due and payable on the first (1st) day of January of each calendar year. In the event that a permit shall be issued during the period from January 1 up to and including June 30 of a calendar year, the permit fee for a massage business shall be One Thousand (\$1,000.00) Dollars. In the event that a permit is issued at any time during a calendar year from July 1 up to and including December 31, the permit fee for that calendar year shall be Five Hundred (\$500.00) Dollars.

The permit fee for a masseur shall be Twenty-five (\$25.00) Dollars per year, payable upon application. There shall be no pro-ration of a masseur's permit fee

regardless of when issued. In the event that a masseur's permit be denied, there shall be no refund of the Twenty-five (\$25.00) Dollar fee referred to herein.

In the event that the application for a massage business shall be refused, then the application fee as tendered in accordance with the applicable provisions of this Ordinance shall be refunded up to an including the total sum of Seven Hundred Fifty (\$750.00) Dollars. Two Hundred Fifty (\$250.00) Dollars shall be retained by the Town to cover investigation and administrative expenses.

C. Term of Permit.

The term of a massage business permit and masseur's permit shall be for a period of one (1) year or any portion thereof to the time of the annual permit fee being due and payable.

The application shall be made by holders of massage business permits and masseur's permits no later than forty-five (45) days prior to the expiration of said permit. The application shall be made in accordance with the provisions of this Ordinance, and all provisions of this Ordinance shall apply to renewals in the same manner as they apply to original applications.

D. Transfers.

No massage business or masseur permits are transferable, separate or divisible, and such authority as a permit confers shall be conferred only on the permittee named therein.

No massage business permit shall be applicable to any other location other than that location set forth in the initial application under the terms of this Ordinance.

E. Sanitation and Safety Requirements.

All premises used by the permittees hereunder shall be periodically inspected by the Code Enforcement Officer or his/her authorized representatives for safety of the structure and adequacy of plumbing, ventilation, heating and illumination. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the massage operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one (1) patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. NO massage service or practice shall be carried on within any cubicle, room booth, or any area within a massage establishment which is fitted with a door capable of being locked.

Nothing contained herein shall be construed to eliminate other minimum requirements of federal, state or county or town ordinances or regulations pertaining or applicable to the maintenance, control, and operation of said premises; nor to preclude any authorized inspections thereof by either the building inspector, health department, fire department, or any other authorized inspections.

The premises used by permittees hereunder shall be subject to the right of entry and examination by the Code Enforcement Officer, representative the police agency responsible for the law enforcement in the municipality, or the duly authorized agents or representatives of the Code Enforcement Officer, or any other persons authorized to inspect premises of this nature as hereinabove set forth during business hours.

This section shall not restrict or limit the right of entry vested in any law enforcement agency other than herein set forth.

F. Supervision.

A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one (1) person who qualifies as a masseur on the premises at all times when the establishment is open. The massage business permittee shall personally supervise the business and shall not violate or permit others to violate, any applicable provisions of this Ordinance or any other applicable laws. The violation of any such provision by any agent or employee of the massage business permittee shall constitute a violation by the permittee and by the person violating the provisions of this Ordinance or any other law.

SECTION 6. REFUSAL, REVOCATION AND SUSPENSION OF PERMIT

A. Refusal of Application.

In the event any applicant is refused a permit under the provisions of this Ordinance, the applicant shall have ten (10) days from the receipt of said refusal in writing to appeal to the Mayor and Council for review of said application.

Said permittee shall then be entitled to a hearing on said application, either before the Mayor and Council or before some duly authorized or appointed administrative agency of the Town, designated by said Mayor and Council.

A record of said hearing shall be kept. In the event said hearing results in further refusal, the applicant shall have all applicable remedies as set forth in the Maryland Rules of Practice and Procedure and the Annotated Code of Maryland for appeals from administrative agencies.

B. Revocation and Suspension of Permit.

Any massage business or masseur's permit issued under this Chapter shall be subject to suspension or revocation by the Code Enforcement Officer for violation of any provision of this Ordinance, or for any grounds that would warrant denial of issuance of such permit in the first place. The Code Enforcement Officer, upon such revocation or suspension, shall state his/her reasons in writing, specifying the particular grounds for such revocation or suspension.

Said permittee shall then be entitled to a hearing on said application, either before the Mayor and Council, or before some duly authorized or appointed administrative agency of the Town, or hearing board consisting of at least three (3) persons designated by said Mayor and Council.

A record of said hearing shall be kept. In the event said hearing results in further refusal, the applicant shall have all applicable remedies as set forth in the Maryland Rules of Practice and Procedure and the Annotated Code of Maryland for appeals from administrative agencies.

SECTION 7. UNLAWFUL ACTS

A. Persons Under Age 18 Prohibited on the Premises.

No person shall permit any person under the age of eighteen (18) years to come or remain on the premises of any massage business establishment, as masseur, employee, or patron, unless such person is on the premises on lawful business.

B. Alcoholic Beverages.

No person shall sell, give, dispense, provide or keep or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any massage business.

C. Unlawful Acts.

1. It shall be unlawful to remain open or to provide services between the hours of twelve (12:00) midnight and eight (8:00) A.M.
2. It shall be unlawful for any person, in a massage establishment, to place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, an erogenous area of any other person.
3. It shall be unlawful for any employee in a massage establishment, to expose the erogenous area, or any portion thereof, to any other person. It shall be also unlawful for any person, in a massage establishment, to expose the erogenous area or any portion thereof, to any other person.

4. It shall be unlawful for any person, while in the presence of any other person in a massage establishment, to fail to conceal with a fully opaque covering, the erogenous area of his or her body.

5. It shall be unlawful for any person to act as a masseur in any place other than a licensed massage establishment.

6. All other acts set forth herein are in addition to all other acts prohibited by this Ordinance and the laws of the State of Maryland.

SECTION 8. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and the such decision shall not affect the validity of the remaining portions hereof.

SECTION 9. PENALTIES

A. Violations and Penalties.

Every person convicted of a violation of any provision of this Ordinance shall be punished by a fine of One Hundred (\$100.00) Dollars, or imprisonment for a period not exceeding thirty (30) days, or both such fine and imprisonment within the discretion of the Court.

The penalties as set forth herein are in addition to, and not in derogation, of any other penalties provided in this Ordinance, or under the applicable laws of the State of Maryland.

The penalties as set forth herein are also in addition to all civil remedies that may be applicable.

EFFECTIVE DATE: May 4, 1976

REENACTED: September 11, 1989

REVISED¹ AND REENACTED: March 1, 2005

Former Chapter 7 in 1989 Codification.

¹ Reviser's Note: The revisions in this Ordinance were in the Definitions (Paragraphs §1.B. 9&10) and to provide enforcement other than by the "Police Chief" as had been originally referred to in the Ordinance. The Town has not had a Police Chief for many years.